

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

HAKEEM ABDUL SHAHEED,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 05-461-GPM
)	
BUREAU OF PRISONS,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

MURPHY, Chief District Judge:

Plaintiff is an inmate currently in the United States Penitentiary at Terre Haute, Indiana; he filed this action under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346, 2671-2680. This Court granted Plaintiff’s request for leave to proceed *in forma pauperis*, and his initial partial filing fee has been received.

In this case, Plaintiff claims that while he was at the United States Penitentiary at Marion, Illinois, he was required to pack and ship out a significant number of his books. Apparently the box was damaged during shipping, and his books were lost. He filed an administrative remedy with the Bureau of Prisons, which was denied; he then filed this action under the FTCA seeking reimbursement for his lost books. Plaintiff has named the Bureau of Prisons as the defendant in this action. In an action under the FTCA, however, the United States of America is the only proper defendant. *See* 28 U.S.C. § 2679(b). Therefore, the proper substitution of parties will be made.

Plaintiff also seeks appointment of counsel, but there is no absolute right to appointment of counsel in a civil case. *Cook v. Bounds*, 518 F.2d 779 (4th Cir. 1975); *Peterson v. Nadler*, 452 F.2d

754 (8th Cir. 1971). When deciding whether to appoint counsel, the Court must first determine if a *pro se* litigant has made reasonable efforts to secure counsel before resorting to the courts. *Jackson v. County of McLean*, 953 F.2d 1070, 1072 (7th Cir. 1992). Plaintiff makes no showing that he has attempted to retain counsel. Additionally, after examining the documents submitted to this Court, it appears that Plaintiff is more than capable of presenting his case and handling the issues involved. Therefore, applying these standards to the instant case, the Court finds that appointment of counsel is not warranted. Accordingly, Plaintiff's motion for appointment of counsel (Doc. 3) is **DENIED**.

DISPOSITION

IT IS HEREBY ORDERED that the United States of America is **SUBSTITUTED** as Defendant in this action.

IT IS FURTHER ORDERED that Defendant **BUREAU OF PRISONS** is **DISMISSED** from this action without prejudice.

IT IS FURTHER ORDERED that in all future pleadings, the title of this case shall be "*Hakeem Abdul Shaheed, Plaintiff vs. United States of America, Defendant.*"

IT IS FURTHER ORDERED that the United States Marshal shall serve a copy of the Complaint, Summons, and this Order upon the United States Attorney for the Southern District of Illinois and upon the Attorney General of the United States at Washington, D.C., pursuant to Rule 4(i) of the Federal Rules of Civil Procedure. All costs of service shall be advanced by the United States.

IT IS FURTHER ORDERED that Plaintiff shall serve upon the United States Attorney for the Southern District of Illinois, a copy of every further pleading or other document submitted for consideration by this Court. He shall include, with the original paper to be filed with the Clerk of

the Court, a certificate stating the date that a true and correct copy of any document was mailed to the United States Attorney. Any paper received by a district judge or magistrate which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court.

IT IS FURTHER ORDERED that pursuant to Local Rule 72.1(a)(2), this cause is referred to a United States Magistrate Judge for further pretrial proceedings.

IT IS FURTHER ORDERED that this entire matter be referred to a United States Magistrate Judge for disposition, as contemplated by Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c), *should all the parties consent to such a referral.*

IT IS SO ORDERED.

DATED: 03/01/06

s/ G. Patrick Murphy
G. PATRICK MURPHY
Chief United States District Judge